

रजिस्टरें नं० पी० 461



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, बीरबार, 27 अगस्त, 1970/5 भाद्रपद, 1892

GOVERNMENT OF HIMACHAL PRADESH LAW DEPARTMENT NOTIFICATION

Simla-2, the 1st August, 1970

No. 6-22/69-LR.—The Himachal Pradesh Surcharge on Purchase of Forest Produce Bill, 1969 (Bill No. 16 of 1969) after having received the assent of the President on the 9th July, 1970, under sub-section

(2) of section 25 of the Government of Union Territories Act, 1963 (Act No. 20 of 1963) is hereby published in the Rajpatra, Himachal Pradesh as Act No. 18 of 1970.

JOSEPH DINA NATH,
Under Secretary (Judicial).

Act No. 18 of 1970

THE HIMACHAL PRADESH SURCHARGE ON PURCHASE OF FOREST PRODUCE ACT, 1969

AN

ACT

to provide for the levy and collection of a surcharge on purchase of forest produce.

Be it enacted by the Legislative Assembly of the Union territory of Himachal Pradesh in the Twentieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Surcharge on Purchase of Forest Produce Act, 1969.

Short title,
extent and
commencement.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force on such date as the State Government may by notification in the Official Gazette, appoint in this behalf.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(1) "Assessing authority" means any person authorised by the State Government to make any assessment under this Act;

(2) "Appellate authority" means any person authorised by the State Government to decide the appeals to be made under section 8 of this Act;

(3) "Forest produce" means a forest produce as defined in section 2(4) read with sub-sections (6) and (7) of section 2 of the Indian Forest Act, 1927;

(4) "Prescribed" means prescribed by rules made under this Act;

(5) "Purchase" with all its grammatical variations and cognate expressions means the acquisition of forest produce for cash or deferred payment or for other valuable consideration;

Explanation.—Purchase of forest produce on instalment system of payment shall, notwithstanding that the seller retains a title to forest produce as security for payment of the purchase money, be deemed to be a purchase;

(6) "Purchaser" means a person who purchases or agrees to purchase forest produce or any legal representative or successor-in-interest of such person;

(7) "Purchase money" means the amount of valuable consideration paid or payable by a person for the purchase of any forest produce; and

(8) "Schedule" means the schedule appended to this Act.

3. (1) There shall be levied and paid to the State Government by the purchaser a surcharge on all purchases of such forest produce as may from time to time be included in the schedule and at such rates not exceeding 10% of the purchase money, as may be notified in this behalf.

Rate of
surcharge.

(2) The State Government, after giving by notification not less than 30 days notice of its intention so to do, may, by notification, add to or delete from the schedule any item of forest produce and may fix, increase or decrease the percentage of surcharge as given in column 3 of the schedule and thereupon the schedule shall be deemed to have been amended accordingly.

Exemption.

4. The provisions of this Act shall not apply,

(a) to purchases below Rs. 1,000:

Provided that the total purchases of forest produce made by a purchaser in any calendar year do not exceed Rs. 1,000;

(b) to any subsequent purchase of the whole or part of such forest produce, for any prior purchase of which, a surcharge has been paid.

Mode of payment and collection.

Submission of information and procedure for levy and collection of surcharge from purchasers of non-Government forest produce.

5. The surcharge shall be paid to and collected by the Forest Department in case of purchases made from the Forest Department as well as in all other purchases of the forest produce.

6. (1) Every purchaser of forest produce, which has not been purchased from the Forest Department, shall within 30 days from the date of purchase, furnish information of the purchase made by him to the assessing authority.

(2) If a purchaser fails to furnish the information required under sub-section (1) or furnishes information which is wrong in material particulars, the assessing authority shall make assessment of the surcharge to the best of his judgement.

(3) The assessing authority shall intimate to the purchaser the surcharge assessed directing him to deposit the same within 30 days of the receipt of the notice of demand. The purchaser may either deposit the surcharge assessed and/or may file objections in writing along with all the documentary evidence in support of his objections within 30 days of the receipt of the notice of demand to the assessing authority.

(4) The assessing authority shall consider the objections received under sub-section (3) and pass order after recording his reasons.

7. The assessing authority shall intimate to the purchaser of Government forest produce the surcharge assessed directing him to deposit the same within 30 days of the receipt of the notice of demand and the surcharge shall be deposited by the purchaser within this period.

Levy and collection of surcharge from purchasers of Government forest produce.**Appeal.**

8. Any purchaser aggrieved by an order of the assessing authority passed under sub-section (4) of section 6 or assessment made under section 7 may within a period of 30 days from the date of such order or assessment, appeal to the appellate authority whose decision subject to the provisions of section 9 shall be final.

9. The Chief Conservator of Forests may, either of his own motion or on application by a purchaser made within 90 days from the date of the order, call for and examine the record of the proceedings in which any order was passed, and on receipt of the record may make such enquiry or cause such enquiry to be made, as he considers necessary and subject to the provisions of this Act, may pass such order thereon as he thinks fit:

Provided that he shall not revise any order under this section where an appeal against the order of assessing authority is pending before the appellate authority, or where if such appeal lies, the time within which it may be filed has not expired.

10. If the assessing authority or the appellate authority or the Chief Conservator of Forests is satisfied that the surcharge paid by the purchaser exceeds the amount to which he has been assessed under this Act, he shall cause a refund to be made of any amount in the manner prescribed.

Refund of excess paid surcharge.**Bar of jurisdiction of civil courts.**

11. No civil court shall have any jurisdiction to entertain or decide any question relating to matters falling under this Act or the rules made thereunder.

12. (1) No suit, prosecution or other legal proceedings shall lie against any person in respect of anything which is in good faith done or intended to be done in pursuance of this Act or the rules made thereunder.

Bar to legal proceedings.

(2) No suit or other legal proceedings shall lie against the State Government for damage caused by anything which is in good faith done or intended to be done in pursuance of this Act or the rules made thereunder.

13. (1) No forest produce shall be removed unless the surcharge money has been paid.

(2) The provisions of section 41 of Indian Forest Act, 1927 and of the rules framed thereunder and which may be framed from time to time shall govern the removal and transport of forest produce either by land or by water.

14. Any person contravening any provisions of this Act or rules made thereunder shall be punishable with imprisonment for a term which may extend to six months or fine which may extend to Rs. 1,000 or both.

Penalties.

15. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence under this Act or from being liable under such other law to any higher punishment or penalty than that provided by this Act:

Provided that no person shall be punished twice for the same offence.

16. All moneys payable to the State Government under this Act or under any rule made thereunder may, if not paid when due, be recovered under the law for the time being in force as if it were an arrear of land revenue.

Operation of other laws not barred.

17. No sales tax shall be charged under Himachal Pradesh General Sales Tax Act, 1968 on the forest produce on the purchase of which a surcharge is payable under this Act.

Recovery of money due to Government.

No sales tax payable on forest produce on which surcharge is leviable.

Power to exempt.

18. The Government, if satisfied that it is necessary or expedient so to do in the interest of forest based industries, may exempt any industry already established or to be established within the territory of this Pradesh from the payment of surcharge leviable under this Act.

Power to make rules.

19. (1) The Government may, by notification, make rules consistent with this Act to carry out the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than 15 days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE SCHEDULE

(See section 3)

Sl. No.	Forest Produce	Rate of surcharge expressed as a percentage of purchase money
1.	Trees of all species	6%
2.	Timber of all species	6%
3.	Dioscorea	6%

प्रबन्धक, हिमाचल प्रदेश शासन मुद्रणालय, शिमला-3 द्वारा मन्त्रित तथा प्रकाशित